IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 32662 of 2006(L)

OP.40/2000 of PRL.SUB COURT,IRINJALAKUDA
.....

PETITIONER:

GOPINATHAN, AGED 47,
S/O. SANKARANARAYANAN, THENGUMPILLY HOUSE,
P.O.CHITTISSERY, MUKUNDAPURAM TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT:

THE FEDERAL BANK LTD., REP. BY
ITS BRANCH MANAGER, NELLAI,
THRISSUR DISTRICT.

BY ADV. SRI.GEORGE VARGHESE (MANACHIRACKEL)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.32662/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE AWARD PASSED BY THE LOK ADALATH, THRISSUR IN PRE LITIGATION CASE NO.40/00.

EXT.P2:- COPY OF THE EP. nO.215/01 IN PRL OP. NO. 40/00 BEFORE THE SUB COURT, IRINJALAKUDA DT. 21.7.01.

EXT.P3:- COPY OF THE EA 960/06 IN EP. NO.215/01 IN PRL OP. 40/00 SUB COURT, IRINJALAKUDA DT. 1`2.6.02.

EXT.P4:- COPY OF THE CERTIFICATE ISSUED TO THE PETITIONER DT. 3.11.06.

/TRUE COPY/

tss

PIUS C. KURIAKOSE, J.

W.P.(C) No. 32662 OF 2006

Dated this the 6th day of July, 2007

JUDGMENT

In this Writ Petition under Article 227, the judgment debtor in a money decree which has been obtained by the respondent, Federal Bank impugns the order of delivery which has been passed by the execution court in favour of the Bank in respect of the property which has been purchased by the Bank in auction. I do not find any warrant for invocation of the visitorial jurisdiction against the impugned order passed by the execution court. However, I notice that purely on considerations of indulgence, this court on 11.12.05 passed an order of stay only on condition that the petitioner pays a sum of Rs.30,000/- within one month from that date. I am informed that the above condition has been complied with. I am of the view that the only relief which can be aspired for by the petitioner is some time in the matter of payment. But at the same time there is merit in the submission made on behalf of the respondent Bank that the petitioner has not kept the promises he gave to this court in its appellate jurisdiction.

Considering the totality of the circumstance attending on this case, I dispose of the Writ Petition directing that the stay presently passed will not continue beyond 15th of August 2007. It is open to the

petitioner to settle the issue with the Bank within that date (if the same is not already settled). At any rate after 15.08.07 the order of delivery will operate and the Bank will have the permission of this court to take delivery.

PIUS C. KURIAKOSE, JUDGE

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